

FILED

October 30, 2017

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8006

**ORDER REGARDING ATTORNEY FEE
AWARDS IN APPEALS FROM THE
WORKERS' COMPENSATION COURT OF APPEALS**

We may award reasonable attorney fees to the prevailing employee in appeals from the Workers' Compensation Court of Appeals (WCCA), *see* Minn. Stat. § 176.511, subd. 5 (2016) (stating that “upon a review by the Supreme Court upon certiorari . . . the court may allow a reasonable attorney fee incident to the review”). *See also Pacyga v. FMC Corp.*, 581 N.W.2d 859, 861 n.5 (Minn. 1998) (“The workers’ compensation appellate attorney fee provision is exclusively for the benefit of the employee.”). In an order filed November 2, 2002, attorney-fee awards under Minn. Stat. § 176.511, subd. 5, for appeals filed with this court on or after January 1, 2003, were set at \$1,200 in cases in which “briefs are filed and the matter is considered on the en banc nonoral calendar” and \$1,600 in cases in which “briefs are filed and the matter is considered on the en banc oral calendar.” *In re Workers’ Compensation Attorney Fees on Certiorari*, 653 N.W.2d 451 (Minn. 2002) (order).

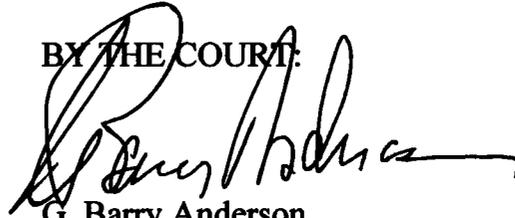
We have not adjusted the allowance for attorney-fee awards since 2003. We have reviewed practices with respect to attorney-fee awards in appeals governed by the workers’ compensation act, Minn. Stat. ch. 176 (2016), and have concluded that the awards for reasonable attorney fees on appeal to this court should be increased.

Based upon all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT, effective for appeals filed on or after January 1, 2018, in which an award of compensation under Minn. Stat. ch. 176 is affirmed or affirmed in part, or a decision disallowing compensation under Minn. Stat. ch. 176 is reversed, an award of attorney fees to the prevailing employee in the amount of \$3,500 shall be allowed where briefs are filed and the matter is considered on the en banc nonoral calendar, and an award of attorney fees to the prevailing employee in the amount of \$4,000 shall be allowed where briefs are filed and the matter is considered on the en banc oral calendar. Fee awards shall not exceed these amounts unless the prevailing employee demonstrates, in a motion filed as directed by Minn. R. Civ. App. P. 139.06, that extraordinary circumstances require an increase in the reasonable fee awards provided by this order.

Dated: October 30, 2017

BY THE COURT:

A handwritten signature in black ink, appearing to read "G. Barry Anderson", written over the printed name.

**G. Barry Anderson
Associate Justice**